

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

Criminal No. 06-149 (1) (RHK/LIB)

vs.

ORDER

Gray Franklin Albin,

Defendant.

Before the Court is Defendant's Motion, pursuant to 28 U.S.C. § 2255, seeking to vacate his May 18, 2007, sentence of 220 months of imprisonment. In imposing that sentence, this Court determined that he was an armed career criminal under 28 U.S.C. § 924(e). Several recent court decisions suggest that his armed career offender classification may have been incorrect. The Court has determined to (a) conduct an evidentiary hearing with respect to the armed career classification and (b) appoint counsel for Defendant to represent him in connection with such hearing. Accordingly, **IT IS ORDERED:**

1. An evidentiary hearing will be held before the undersigned on Friday, January 7, 2011 at 9:30 a.m. in Courtroom 7A, United States Courthouse, 316 N. Robert Street, St. Paul, Minnesota;

2. The Office of the Federal Defender is appointed to represent Defendant with respect to said hearing;

3. The Court will schedule a status conference with counsel in early December to establish the procedures to be followed at said evidentiary hearing.

Dated: November 22, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge